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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

SHANNON CARTER,

Plaintiff,

v.

JAMES DZURENDA, et al.,

Defendants.

Case No. 2:18-cv-00452-APG-BNW

ORDER

Presently before the Court is Plaintiff Shannon Carter’s Motion for Extension of Time for Service (ECF No. 35) and for Stay of the Summary Judgment Motion (ECF No. 36), filed on November 8, 2019. Defendants Bean and Aranas filed a response opposing both requests on November 22, 2109 (ECF Nos. 37 and 38).

I. Request for Extension of Time for Service of Process

Plaintiff requests an extension to serve the summonses and complaint on Defendants Bitar, Mangapit, and Aranas.¹ Plaintiff does not specifically address how much time he seeks to do so. Plaintiff’s current deadline for serving all Defendants expired on August 28, 2019. (*See* ECF No. 18 (ordering service of process to be perfected within 90 days on May 30, 2019).) In support of his motion, Plaintiff states that he first learned the Attorney General’s Office would

¹ Plaintiff also includes a Jane Doe defendant in his complaint. ECF No. 5. Given that service of process cannot be effectuated on a Jane Doe defendant, the court will only address service of process on the named unserved defendants.

1 not accept service on behalf of the remaining named unserved defendants on October 24, 2019
2 and had no reason to believe that would be the case.²

3 Defendants Bean and Williams, who are represented by the Attorney General Office,
4 respond that sending Plaintiff a letter on October 24, 2019, indicating they would not accept
5 service for Bitar, Mangapit, and Aranas, was not the only mechanism through which Plaintiff
6 would have been on notice of this fact. Bean and Williams explain that back in June of 2019, they
7 also filed a Notice of Acceptance of Service with the court conveying this same information.
8 (ECF No. 19.) In addition, these two defendants point out that the Answer was filed *only* by Bean
9 and Williams. Lastly, Defendants Bean and Williams point out that Plaintiff's request was filed
10 after the expiration of the deadline (August 28, 2019).

11 Rule 4(m) establishes the time for service on domestic defendants: if a defendant is not
12 served within 90 days after the complaint is filed, the court must dismiss the action without
13 prejudice against that defendant or order that service be made within a specified time. The rule
14 further provides that if the plaintiff shows good cause for the failure, the court must extend the
15 time for service for an appropriate period. *Lemoge v. United States*, 587 F.3d 1188, 1198 (9th Cir.
16 2009) (citing version of Rule 4(m) with 120-day deadline). If the serving party does not show
17 good cause, the court has discretion to extend time for service, or to dismiss the complaint
18 without prejudice. *In re Sheehan*, 253 F.3d 507, 513 (9th Cir. 2001). The court's discretion to
19 extend time for service, or to dismiss without prejudice for failure to timely serve, is broad. *Id.*

20 Courts must determine on a case-by-case basis whether the serving party has shown good
21 cause. *In re Sheehan*, 253 F.3d at 512. Generally, good cause is equated with diligence. *Townsel*
22 *v. Contra Costa Cnty.*, Cal., 820 F.2d 319, 320 (9th Cir. 1987). A showing of good cause

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24 ² Plaintiff also states that he filed a motion with this court requesting that Defendant Aranas' last known
25 address be filed under seal. There is no such motion filed in this docket. It is clear that Plaintiff is
26 confusing this case with another case he has filed in this district: 17-cv-1628-RFB-EJY. Plaintiff is
27 cautioned that these are two separate cases, and actions undertaken in one case do not necessarily have any
28 bearing on another case. Nevertheless, as to the issue Aranas' last known address, on June 19, 2019, the
Attorney General filed a Notice of Acceptance of Service which specifically states that it would file, under
seal, the last known addresses for all other identified defendants for whom service of process was not
accepted, including Aranas. (ECF No. 19.)

1 requires more than inadvertence or mistake of counsel. *Id.* “[A]t a minimum, good cause means
2 excusable neglect.” *In re Sheehan*, 253 F.3d at 512 (quotation omitted).

3 Plaintiff has not demonstrated good cause to extend time to serve Defendants. Plaintiff
4 was on notice as to which defendants he would be responsible for serving as early as June 19,
5 2019. (*See* ECF No. 19.) Moreover, the Answer that was filed on July 24, 2019 was filed only by
6 Defendants Bean and Williams. (ECF No. 23.) Lastly, Plaintiff has not been diligent because he
7 failed to move to extend time to serve the remaining Defendants before the 90-day deadline
8 expired.

9 Regardless, under Rule 4, the court has discretion, even without good cause, to extend the
10 time for service. *In re Sheehan*, 253 F.3d at 513. Given that this is Plaintiff’s first request to
11 extend time for service, the court will grant Plaintiff until June 11, 2020 to serve the named
12 unserved Defendants. Plaintiff is advised that failure to comply with this deadline or to timely
13 request an extension of this deadline will weigh strongly against a finding of good cause in the
14 future. In addition, at this point, Plaintiff has not complied with this court’s May 30, 2019 Order
15 stating that Plaintiff has to first file a motion requesting the issuance of summonses for the named
16 unserved defendants (Bitar, Mangapit, and Aranas). The address for those defendants has already
17 been provided and has been filed under seal. (ECF Nos. 19, 20.) That motion is the first step to
18 perfecting service of process on the named unserved defendants. Plaintiff has 30 days from
19 today’s date to file that motion.

20 **II. Request for Stay of Motion for Summary Judgment**

21 Plaintiff requests that ruling on the motion for summary judgment (ECF No. 32) be stayed
22 until the remaining defendants have been served. Defendants Bean and Williams oppose this
23 request. In essence, Bean and Williams argue the district court can make its ruling on that motion
24 based on the current procedural posture of this case: the motion for summary judgment filed by
25 Plaintiff includes non-parties and does not specify the individual defendant(s) against whom
26 summary judgment should be entered.

27 A “district court has inherent power ‘to control the disposition of the cases on its docket
28 with economy of time and effort for itself, for counsel, and for litigants.’” *United States v. U.S.*

1 *Dist. Court for N. Mariana Islands*, 694 F.3d 1051, 1058 (9th Cir. 2012) (citing *Landis v. N. Am.*
2 *Co.*, 299 U.S. 248, 254 (1936)). In addition, Federal Rule of Civil Procedure 1 emphasizes the
3 need to ensure that all procedures in civil actions be “construed, administered, and employed by
4 the court and the parties to secure the just, speedy, and inexpensive determination of every action
5 and proceeding.” Fed. R. Civ. P. 1. This court finds that, in accordance with the guidance of
6 Federal Rule of Civil Procedure 1, staying the decision of Plaintiff’s motion for summary
7 judgment will not further those interests. Plaintiff could have waited to file his motion for
8 summary judgment (but instead, he filed it before the deadline) or could have sought an extension
9 of the deadline to file such motion and wait until all defendants had been served. Nothing can be
10 gained from staying that decision. As a result, this court will deny Plaintiff’s request to stay the
11 ruling on the motion for summary judgment. (ECF No. 32.)

12 **III. Conclusion**

13 **IT IS THEREFORE ORDERED** that Plaintiff’s Motion for Extension of Time for
14 Service (ECF No. 35) is **GRANTED**, making the service deadline June 11, 2020 for all
15 remaining named defendants.

16 **IT IS FURTHER ORDERED** that Plaintiff shall have until April 3, 2020 to file a
17 Motion for the issuance of summonses as to the remaining named unserved defendants (Bitar,
18 Mangapit, and Aranas).

19 **IT IS FURTHER ORDERED** that Plaintiff’s Motion to Stay the Motion for Summary
20 Judgment is **DENIED**.

21
22 DATED: March 11, 2020

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24 
25 BREND A WEKSLER
26 UNITED STATES MAGISTRATE JUDGE
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